

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DONNIE FOSTER

PLAINTIFF

v.

No. 4:09CV127-A-S

CARROLL COUNTY, ET AL., ET AL.

DEFENDANTS

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Upon consideration of the file and records in this action, the court finds that the Report and Recommendation of the United States Magistrate Judge dated June 23, 2011, was on that date duly served by mail upon the *pro se* plaintiff at his last known address; that more than fourteen days have elapsed since service of the Report and Recommendation; and that no objection to the Report and Recommendation has been filed or served by any party. The court is of the opinion that the magistrate judge's Report and Recommendation should be approved and adopted as the opinion of the court. It is, therefore **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge dated June 23, 2011, is hereby **APPROVED AND ADOPTED** as the opinion of the court.

2. The instant case is hereby **DISMISSED** with prejudice as frivolous, counting as a "strike" under 28 U.S.C. §§ 1915 (e)(2)(B)(i) and 1915(g).

3. Based on this ruling, motion number 70 (plaintiff's motion *in limine* seeking a ruling that proposed plaintiff's exhibits be admitted) is **DENIED** as moot.

4. The defendants' motion [106] to strike Motions [91], [93] (which seek *habeas corpus* relief) is **GRANTED**.

5. The plaintiff's motion [99] to strike certain defense exhibits as immaterial is **GRANTED**.

6. The motions [113] and [118] by the defendants to strike improper surrebuttals [111], [117] filed by the plaintiff are **GRANTED**.

7. Defendants' motion [120] to file a supplemental brief in support of the motion for summary judgment is **DENIED**.

8. Plaintiffs motions [123], [128] – substantive responses to the proposed supplemental response by the defendants that is the subject of defendants' motion [120] – are **STRICKEN** by the court *sua sponte*.

9. The motion [134] by the defendants to strike two newspaper articles is **GRANTED**.

THIS, the 20th day of September, 2011.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE